

# SB1568



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

SB1568

Introduced 2/13/2013, by Sen. William Delgado

#### SYNOPSIS AS INTRODUCED:

820 ILCS 115/11

from Ch. 48, par. 39m-11

Amends the Illinois Wage Payment and Collection Act. Authorizes the Department of Labor to establish administrative procedures to adjudicate claims of any amount (removes a provision limiting the Department's authority to claims of \$3,000 or less).

LRB098 07682 JLS 37755 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Wage Payment and Collection Act is  
5 amended by changing Section 11 as follows:

6 (820 ILCS 115/11) (from Ch. 48, par. 39m-11)

7 Sec. 11. It shall be the duty of the Department of Labor to  
8 inquire diligently for any violations of this Act, and to  
9 institute the actions for penalties herein provided, and to  
10 enforce generally the provisions of this Act.

11 An employee may file a complaint with the Department  
12 alleging violations of the Act by submitting a signed,  
13 completed wage claim application on the form provided by the  
14 Department and by submitting copies of all supporting  
15 documentation. Complaints shall be filed within one year after  
16 the wages, final compensation, or wage supplements were due.

17 Applications shall be reviewed by the Department to  
18 determine whether there is cause for investigation.

19 The Department shall have the following powers:

20 (a) To investigate and attempt equitably to adjust  
21 controversies between employees and employers in respect  
22 of wage claims arising under this Act and to that end the  
23 Department through the Director of Labor or any other

1 person in the Department of Labor designated by him or her,  
2 shall have the power to administer oaths, subpoena and  
3 examine witnesses, to issue subpoenas duces tecum  
4 requiring the production of such books, papers, records and  
5 documents as may be evidence of any matter under inquiry  
6 and to examine and inspect the same as may relate to the  
7 question in dispute. Service of such subpoenas shall be  
8 made by any sheriff or any person. Any court in this State,  
9 upon the application of the Department may compel  
10 attendance of witnesses, the production of books and  
11 papers, and the giving of testimony before the Department  
12 by attachment for contempt or in any other way as the  
13 production of evidence may be compelled before such court.

14 (b) To take assignments of wage claims in the name of  
15 the Director of Labor and his or her successors in office  
16 and prosecute actions for the collection of wages for  
17 persons financially unable to prosecute such claims when in  
18 the judgment of the Department such claims are valid and  
19 enforceable in the courts. No court costs or any fees for  
20 necessary process and proceedings shall be payable in  
21 advance by the Department for prosecuting such actions. In  
22 the event there is a judgment rendered against the  
23 defendant, the court shall assess as part of such judgment  
24 the costs of such proceeding. Upon collection of such  
25 judgments the Department shall pay from the proceeds of  
26 such judgment such costs to such person who is by law

1 entitled to same. The Department may join in a single  
2 proceeding any number of wage claims against the same  
3 employer but the court shall have discretionary power to  
4 order a severance or separate trial for hearings.

5 (c) To make complaint in any court of competent  
6 jurisdiction of violations of this Act.

7 (d) In addition to the aforementioned powers, subject  
8 to appropriation, the Department may establish an  
9 administrative procedure to adjudicate claims ~~or specific~~  
10 ~~categories of claims filed with the Department for \$3,000~~  
11 ~~or less per individual employee, exclusive of penalties,~~  
12 ~~costs and fines, including instances where an employer~~  
13 ~~fails to timely respond to a notice of claim issued by the~~  
14 ~~Department,~~ and to issue final and binding administrative  
15 decisions on such claims subject to the Administrative  
16 Review Law. To establish such a procedure, the Director of  
17 Labor or her or his authorized representative may  
18 promulgate rules and regulations. The adoption, amendment  
19 or rescission of rules and regulations for such a procedure  
20 shall be in conformity with the requirements of the  
21 Illinois Administrative Procedure Act.

22 Nothing herein shall be construed to prevent any employee  
23 from making complaint or prosecuting his or her own claim for  
24 wages. Any employee aggrieved by a violation of this Act or any  
25 rule adopted under this Act may file suit in circuit court of  
26 Illinois, in the county where the alleged violation occurred or

1 where any employee who is party to the action resides, without  
2 regard to exhaustion of any alternative administrative  
3 remedies provided in this Act. Actions may be brought by one or  
4 more employees for and on behalf of themselves and other  
5 employees similarly situated.

6 Nothing herein shall be construed to limit the authority of  
7 the State's attorney of any county to prosecute actions for  
8 violation of this Act or to enforce the provisions thereof  
9 independently and without specific direction of the Department  
10 of Labor.

11 (Source: P.A. 95-209, eff. 8-16-07; 96-1407, eff. 1-1-11.)